

## **CHAPTER 9-11**

### **TRANSFER AND PERFORMANCE OF OBLIGATION OR OFFER**

#### **9-11-01. Transfer of rights.**

A right arising out of an obligation is the property of the person to whom it is due and may be transferred as such.

#### **9-11-02. Transfer by endorsement - Nonnegotiable written contract.**

A nonnegotiable written contract for the payment of money or personal property may be transferred by endorsement in like manner with negotiable instruments. Such endorsement transfers all the rights of the assignor under the instrument to the assignee subject to all equities and defenses existing in favor of the maker at the time of the endorsement.

#### **9-11-03. Transfer of burden requires beneficiary's consent.**

The burden of an obligation may be transferred with the consent of the party entitled to its benefit, but not otherwise, except as provided by section 47-04-29.

#### **9-11-04. Want of performance or offer - When excused.**

The want of performance of an obligation or of an offer of performance, in whole or in part, or any delay therein, is excused by the following causes to the extent to which they operate:

1. When such performance or offer is prevented or delayed by the act of the creditor or by the operation of law, even though there may have been a stipulation that this may not be an excuse;
2. When it is prevented or delayed by an irresistible superhuman cause or by the act of public enemies of this state or of the United States, unless the parties have agreed expressly to the contrary; or
3. When the debtor is induced not to perform or offer performance by any act of the creditor at or before the time at which such performance or offer may be made and which the creditor has not rescinded before that time.

#### **9-11-05. Benefits awarded to debtor.**

If the performance of an obligation is prevented by the creditor, the debtor is entitled to all the benefits which the debtor would have obtained if it had been performed by both parties.

#### **9-11-06. Ratable proportion of benefits awarded to debtor.**

If performance of an obligation is prevented by any cause excusing performance, other than the act of the creditor, the debtor is entitled to a ratable proportion of the consideration to which the debtor would have been entitled upon full performance according to the benefit which the creditor receives from the actual performance.

#### **9-11-07. Refusal before offer - Equivalent to offer and refusal - Exception.**

A refusal by a creditor to accept performance made before an offer thereof is equivalent to an offer and refusal unless before performance actually is due the creditor gives notice to the debtor of the creditor's willingness to accept it.

#### **9-11-08. Definitions.**

Repealed by S.L. 1981, ch. 91, § 66.

#### **9-11-09. Assignment of account receivable.**

Repealed by S.L. 1973, ch. 79, § 1.